

SALE OF TOBACCO TO MINORS BYLAW

**The Bylaw regulating the sale, vending, and distribution of tobacco within the
Town of Concord as adopted at the Town of Concord Annual Town Meeting,
April 1991**

(Amended at Annual Town Meeting 1995)

SECTION 1 - DECLARATION OF POLICY AND PURPOSE

- WHERE AS:** Cigarette smoking is the chief avoidable cause of death in this country, and
- WHERE AS:** Medical and scientific evidence demonstrates that tobacco usage is addictive and causes serious health problems, and
- WHERE AS:** The Surgeon General has concluded that cigarettes and other forms of tobacco are habit-forming in the same sense as are drugs such as heroin and cocaine, and
- WHERE AS:** Most causes of tobacco use begin during childhood and adolescence,
- THEREFORE:** This bylaw seeks to protect the public health by further restricting the sale, vending, and distribution of tobacco in Concord.

SECTION 2 - DEFINITIONS

- A. TOBACCO:** Cigarettes, chewing tobacco, snuff, or tobacco in any of its forms.
- B. MINOR:** Person under eighteen (18) years of age.
- C. TOBACCO VENDING MACHINES:** A device, which dispenses tobacco products by self service or by remote control.

SECTION 3 - PERMITS

- A.** No person, firm, corporation, establishment, or agency shall sell tobacco within the Town of Concord without a Tobacco Sales Permit issued by the Board of Health.
- B.** An application for a Tobacco Sales Permit shall be filed within sixty (60) days following the effective date of this bylaw on a form provided by the Concord Board of Health.
- C.** The fee for an initial Tobacco Sales Permit shall be fifty (\$50) dollars. All such permits shall be renewed annually by June first (1st) at an annual renewal cost of fifty dollars (\$50) dollars.
- D.** Tobacco Sales Permits must be posted conspicuously to the public.
- E.** The provisions of this bylaw as to the securing of permits shall not be applicable to tobacco vending machines licensed by the Commonwealth of Massachusetts.

SECTION 4 - PROHIBITED ACTS

- A.** No person, firm, corporation, establishment, or agency shall distribute tobacco or tobacco-related products to minors free of charge or by any method of distribution in connection with a commercial or promotional endeavor within the Town of Concord. Tobacco distribution includes, but is not limited to, product "give-aways", "cents-off coupons", "buy one, get one free", or as an incentive, prize, award or bonus in a game, contest, or tournament involving skill or chance.
- B.** Tobacco vending machines so located as to not be under the supervision of an adult responsible for their operation are prohibited within the Town of Concord.

- C. No person, firm, corporation, establishment, or agency shall sell tobacco products to a minor or permit the purchase by a minor of tobacco products through a tobacco vending machine.
- D. No person, firm, corporation, establishment, or agency shall sell tobacco products to any individual, who, upon request, does not show proof that he or she is not a minor.

SECTION 5 - POSTING

- A. All persons, firms, corporations, establishments, and agencies holding a Tobacco Sales Permit or operating a state licensed tobacco vending machine shall conspicuously post the cash register which receives the greatest volume of tobacco sales as follows:
 - 1. All posting must state that the sale of cigarettes and other tobacco products to persons under age eighteen (18) is prohibited. Such notice must be posted in such a manner as to be readily seen by a person standing or approaching the cash register. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. All notices shall be at least forty-eight (48) square inches and must use at least two (2) contrasting colors, drawings, or pictures as illustrations.
 - 2. On all other cash registers where the sale of cigarettes or tobacco products are made, there shall be posted a notice no smaller than nine (9) square inches and which includes, at a minimum, the statement that the sale of tobacco products to persons under age eighteen (18) is prohibited.
 - 3. All tobacco vending machines shall be posted with a notice as outlined in Section 5A (2) of this bylaw.
 - 4. On all cash registers where cigarettes or tobacco products are sold, there shall be posted a notice no smaller than nine (9) inches, which states "Proof of age required upon request to purchase tobacco products."

SECTION 6 - VIOLATIONS AND PENALTIES

- A. Violation of this bylaw may be enforced as provided by the provisions of Town Bylaws relating to "Violations of Town Bylaws", including the use of Non-Criminal Disposition.
- B. Except where otherwise provided by law, prosecutions for offenses under this bylaw shall be made by a constable, Police Officer, Chief Sanitarian of the Board of Health or his agents.
- C. Persons, firms, corporations, or agencies selling tobacco without a Tobacco Sales Permit will be subject to fines of two hundred (\$200) dollars per day.
- D. The first notice of violation given to an establishment may be issued as a "WARNING". All other violations of this bylaw will be subjected to fines of fifty (\$50) dollars per violation.
- E. Documented sales by permitted establishment to a minor three (3) times within a calendar year will be cause for removal of the Tobacco Sales Permit. All tobacco must be removed from the premises when said permit is removed. Permits removed cannot be reinstated for (1) calendar year following the date of removal.

SECTION 7 - VARIANCE

- A. The Board of Health may vary the application of any provision of these regulations with respect to any particular case when the Board finds the enforcement thereof would do manifest injustice; provided that the decision of the Board may be appealed in a court of competent jurisdiction. Any variance granted may be in writing with a copy available to the public at all reasonable hours in the office of the Town Clerk and in the office of the Health Department.

SECTION 8 - SEPARABILITY

- A. Each part of these regulations is constructed as separate to the extent that if any section, item, sentence, clause, or phrase is held invalid for any reason, the remainder of the regulations shall continue in full force and effect or take any other action relative thereto.